

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION**

G&W PARK CONDO
ASSOCIATION,

Plaintiff,

v.

Case No: 2:21-cv-664-SPC-MRM

SCOTTSDALE INSURANCE
COMPANY,

Defendant.

OPINION AND ORDER¹

Before the Court is G&W Park Condo Association's Amended Motion to Remand ([Doc. 14](#)), and Scottsdale Insurance Company's Response ([Doc. 15](#)). This is an insurance dispute. Scottsdale insured four buildings contained within the same commercial property complex in Port Charlotte, Florida. On April 10, 2021, the four buildings sustained wind damage; G&W Park submitted a claim to Scottsdale; Scottsdale refused to pay the claim because the covered damage is less than the deductible; and G&W sued. Scottsdale removed based on diversity jurisdiction. ([Doc. 1](#)). Now, G&W Park seeks

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remand, contending the amount in controversy is insufficient. The Court denies the Amended Motion.

A defendant may remove a case from state to federal court if the amount in controversy exceeds \$75,000, exclusive of interests and costs, and complete diversity exists. [28 U.S.C. §§ 1332\(a\), 1441\(a\)](#). When a complaint does not specify damages—as here—the removing party must prove amount in controversy by preponderance of the evidence. [*Lowery v. Ala. Power Co.*, 483 F.3d 1184, 1208 \(11th Cir. 2007\)](#). “The substantive jurisdictional requirements of removal do not limit the types of evidence that may be used.” [*Pretka v. Kolter City Plaza II, Inc.*, 608 F.3d 744, 755 \(11th Cir. 2010\)](#). But removal statutes are strictly construed with doubts resolved in favor of remand. [*Dudley v. Eli Lilly & Co.*, 778 F.3d 909, 912 \(11th Cir. 2014\)](#). The amount in controversy is determined at the time of removal. [*Pretka*, 608 F.3d at 751](#).

Scottsdale removed based on G&W Park’s own damages estimate for over \$286,000, prepared by G&W Park’s public adjuster, and submitted in support of G&W Park’s claim. ([Doc. 1-6](#)). G&W Park provided the 22-page, detailed estimate, explaining each charge for replacement of the roofs. Courts regularly consider detailed roofing estimates to establish amount in controversy. *E.g.*, [*Rocca v. Nat'l Specialty Ins.*, No. 2:20-cv-64-FtM-38MRM, 2020 WL 6036882, at *2 \(M.D. Fla. Feb. 24, 2020\)](#). Although G&W Park points to Scottsdale’s pre-suit settlement offer of only \$40,000, “a defendant’s

settlement offer is not evidence of a low amount in controversy because, as is the case here, such an offer is likely to reflect defendant's belief that the plaintiff may be unable to establish liability." *Wilt v. Depositors Ins.*, 6:13-CV-1502-ORL-36, 2013 WL 6195768, at *8 (M.D. Fla. Nov. 26, 2013). Finally, in passing, G&W Park mentions a deductible, which can reduce the amount in controversy. *Stefchack v. GeoVera Specialty Ins.*, No. 6:20-cv-1092-Orl-22GJK, 2020 WL 6478527, at *3 (M.D. Fla. Aug. 26, 2020). Yet, even applying the deductible (\$43,000) to the estimate, the amount in controversy is still met.

In short, the Court finds Scottsdale met its burden to establish amount in controversy by a preponderance of the evidence.

Accordingly, it is now

ORDERED:

Plaintiff's Amended Motion to Remand ([Doc. 14](#)) is **DENIED**.

DONE and **ORDERED** in Fort Myers, Florida on October 9, 2021.


**SHERI POLSTER CHAPPEL
UNITED STATES DISTRICT JUDGE**

Copies: All Parties of Record